IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.2671 OF 2006

IN

APPEAL NO.124 OF 2004

...

Mrs.Chandra Indersen Merchandani ...Appellant

v/s.

V.Krishna Kutty & Ors. ...Respondents

And

Rajiv I. Mirchandani ...Respondent

...

Mr.Clive D'souza i/b Haresh Mehta & Co. for the Appellant.

Mr.Milind Wasudeo i/b Ms.Ashwini M. Rupji for the Respondent No.3 in support.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 16TH AUGUST, 2007

P.C.:

This motion is taken out by the executor named in the Will. Probate of the Will has been granted, though it is true that, in this Appeal that judgment has been stayed. The executor has filed accounts of expenditure incurred by the executor. Though, the motion was taken out in the month of June, 2006 till today reply has not been filed. No affidavit has been filed controverting the correctness of the statement made in the affidavit filed in support of the motion. Motion is, therefore, granted in terms of prayer clause (a). It is, however, made clear that the amount shall be received by the executor subject to the final decision of the appeal and on filing an undertaking with the Receiver that the amount will be brought back, if so directed by this court at the final disposal of the appeal and on such terms and conditions as may be directed by this court. Motion disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)